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6 *IBM Lender Business Process Services and*
Mortgage Electronic Registration System

7
8 **UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF NEVADA**

10 ELLERY J. PETTIT,

11 Plaintiff,

12 vs.

13 PULTE MORTGAGE LLC AND CHASE BANK
14 AND CHASE HOME FINANCE LLC AND IBM
15 LENDER BUSINESS PROCESS SERVICES
AND MERS (MORTGAGE ELECTRONIC
16 REGISTRATION SYSTEM),

17 Defendants.

Case No.: 2:11-cv-00149-GMN-PAL

**MOTION TO QUASH SERVICE OF
PROCESS**

18 Specially Appearing Defendants IBM LENDER BUSINESS PROCESS SERVICES
19 (“IBM LBPS”) and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS (“MERS”), by
20 and through their counsel of record, MICHAEL R. BROOKS, ESQ. of the law firm BROOKS
21 BAUER LLP, hereby make a special appearance and do not waive any procedural or
22 jurisdictional defenses that may be available under the law. IBM LBPS and MERS make this
23 appearance for the limited purpose of requesting an Order quashing service based upon
24 Plaintiff’s failure to serve these Defendants as required by Federal Rule of Civil Procedure 4(h).
25 In support of their Motion, IBM LBPS and MERS represent as follows:

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MEMORANDUM OF POINTS AND AUTHORITIES**I.****INTRODUCTION**

Plaintiff has failed to serve the Summons and Complaint upon Defendants IBM LBPS and MERS in accordance with Federal Rule of Civil Procedure 4(h). First Class U.S. Mail is not an appropriate means of service. As a result, the Defendants hereby make this special appearance and request that this Court quash the defective service and require Plaintiff appropriately effectuate service before any action affecting the rights of these Defendants be taken in this litigation.

II.**FACTS**

On or about January 28, 2011, Plaintiff Ellery J. Pettit filed a civil complaint against IBM LBPS, MERS, and various other defendants (the "Complaint"), which initiated case no. 2:11-cv-00149-GMN-PAL before this Court. Also on January 28, 2011, the Clerk of the Federal District Court issued a summons in a civil action to each IBM LBPS and MERS (the "Summons").

On or about February 22, 2011, Plaintiff filed a certificate of mailing with the Court, which indicates, "on February 3, 2011, [Rebecca Goodwin] deposited for mailing via First Class U.S. Mail, with postage fully prepaid, a true and correct copy of the Summons and Complaint in envelopes addressed to" IBM LBPS, MERS, and various other Defendants. A true and correct copy of the Certificate of Mailing is attached hereto as Exhibit "A". IBM LBPS and MERS have not been served by the Plaintiff in any other manner.

III.**ANALYSIS**

Plaintiff has not effectuated service upon IBM LBPS and MERS in accordance with Federal Rules of Civil Procedure Rule 4(h). Rule 4(h) provides various methods for service upon a corporation, partnership, or association, but First Class U.S. Mail is not permissible.

1 Although the Plaintiff is appearing before this Court in proper person, she must comply with
2 this Court's rules governing proper service of Defendants.

3
4 **IV.**

5 **CONCLUSION**

6 WHEREFORE, IBM LBPS and MERS, pursuant to their special appearance, request
7 that the Court enter an Order quashing the defective service upon these Defendants for the
8 reasons stated above. IBM LBPS and MERS further request that this Court enter an Order
9 requiring Plaintiff to appropriately effectuate service as required by statute before any action
10 affecting the rights of these Defendants be taken in this litigation.

11 DATED this 9th day of March, 2011.

12 BROOKS BAUER LLP

13 By: /s/Michael R. Brooks, Esq.

14 Michael R. Brooks, Esq.

15 Nevada Bar No. 7287

16 Jeffrey J. Todd, Esq.

17 Nevada Bar No. 10780

18 300 S. 4th Street, Suite 815

19 Las Vegas, NV 89101

20 *Attorneys for Specially Appearing Defendants*

21 *IBM Lender Business Process Services and*

22 *Mortgage Electronic Registration System*

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is that of Brooks Bauer LLP, 300 S. 4th Street, Suite 815, Las Vegas, Nevada 89101.

On this day, I served the above and foregoing **MOTION TO QUASH SERVICE** on the parties in said action or proceeding by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

Ellery J. Pettit
6868 SkyPointe Drive #2136
Las Vegas, Nevada 89131
Plaintiff

and placing the envelope in the mail bin at the firm's office.

I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it is deposited with the U.S. Postal Service on the same day it is placed in the mail bin, with postage thereon fully prepaid at Las Vegas, Nevada, in the ordinary course of business. I certify under penalty of perjury that the foregoing is true and correct and that this Certificate of Service was executed by me on the 9th day of March, 2011 at Las Vegas, NV.

/s/ Misty Wolverton
An Employee of BROOKS BAUER LLP

EXHIBIT “A”

1 CERT

2 ELLERY J. PETTIT

6868 SKYPOINTE DR #2136

3 LAS VEGAS, NV 89131

702-788-6099

4 Plaintiff: IN PRO PER

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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

7 ELLERY J. PETTIT

8 Plaintiff(s)

9 Vs.

CASE NO: 2:11-CV-00149-GMN-PAL
DEPT:

12 PULTE MORTGAGE LLC AND CHASE BANK
13 AND CHASE HOME FINANCE LLC AND
14 IBM LENDER BUSINESS PROCESS SERVICES
AND MERS (MORTGAGE ELECTRONIC
REGISTRATION SYSTEM).

15 Defendant(s)

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20 CERTIFICATE OF MAILING

21 Pursuant to NRCP 5(b), I, Rebecca Godwin, certify that I am over the age of 21 years, and not a party to nor interested in the
22 above action. I certify that on February 3, 2011, I deposited for mailing via First Class U.S. Mail, with postage fully prepaid, a
true and correct copy of the Summons and Complaint in envelopes addressed to the following:

23 CHASE BANK
24 C/O JAMES DIMON, CEO
25 270 PARK AVE FL#12
NEW YORK, NY 10017

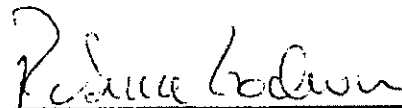
1 CHASE HOME FINANCE, LLC
2 C/O GLENN J. MOURIDY, PRESIDENT/CEO
3 194 WOOD AVE.
4 S. ISELIN, NJ 08830

5 IBM LENDER BUSINESS PROCESS SERVICE
6 C/O AFEAL ASSUR, PRESIDENT
7 8501 IBM DR., BLDG 201 #2DD188
8 CHARLOTTE, NC 28262

9 MERS (MORTGAGE ELECTRONIC REGISTRATION SYSTEM)
10 C/O PAUL BOYNNANNO
11 1818 LIBRARY ST. #300
12 RESTON, VA 20190

13 PULTE MORTGAGE LLC
14 C/O CEO
15 7475 S. JOLIET ST.
16 ENGLEWOOD, CO 80112

17
18 Dated February 3, 2011
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21
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Rebecca Godwin
Juncs Legal Services, INC
630 S. 10th St. Suite B
Las Vegas, NV 89101
702-579-6300 PH
Nevada Process License #1068

23 Subscribed and Sworn to before me, Matthew Kisner
24 This 3 day of FEBRUARY, 2011.
25

Notary Public in and for Clark County, Nevada